

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

John D. West, on Behalf of Himself  
and All Other Persons Similarly Situated,

Plaintiffs,

v.

Case No. C-1-02-1

AK Steel Corporation Retirement  
Accumulation Pension Plan, et al.,

Defendants.

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**ORDER**

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The Final Pretrial Conference date of December 12, 2003 and the Trial date of January 12, 2004 in the above captioned case are hereby vacated pending ruling on summary judgment. A hearing on motions for summary judgment is scheduled on December 17, 2003 at 9:00 a.m., before the Honorable Sandra S. Beckwith in Room 810. The parties should be prepared to present oral argument on Plaintiff's Motion for Partial Summary and Defendants' Motion for Summary Judgment. Specifically, the Court wishes to here arguments relating to:

(1) the relevance of the decision in *Berger v. Xerox Retirement Income Guaranty Plan*, 338 F.3d 755 (7<sup>th</sup> Cir. 2003) to the analysis in *Lyons v. Georgia-Pacific Corp. Salaried Employee Retirement Plan*, 196 F.Supp.2d 1260 (N.D. Ga. 2002) ("*Lyons III*") regarding the impact of Tax Reform Act of 1994; and

(2) the appropriate discount rate if I.R.C. § 417(e) sets the discount rate for the AK Steel Corporation Retirement Accumulation Pension Plan and the appropriate discount rate if I.R.C. § 417(e) does not apply to the AK Steel Corporation Retirement Accumulation Pension Plan under the reasoning of *Lyons III*.

**IT IS SO ORDERED.**

Date: October 20, 2003

s/Sandra S. Beckwith  
Sandra S. Beckwith  
United States District Judge